

-आयकर अपीलिय अधिकरण, अहमदाबाद न्यायपीठ - अहमदाबाद।

IN THE INCOME TAX APPELLATE TRIBUNAL
AHMEDABAD – BENCH ‘A’

**BEFORE SHRI RAJPAL YADAV, JUDICIAL MEMBER
AND
SHRI WASEEM AHMED, ACCOUNTANT MEMBER**

ITA No.3322/Ahd/2016

And

ITA No.1003/Ahd/2018

[निर्धारण वर्ष/ Asstt.Year: 2013-14 and 2014-15]

ACIT, Cent.Cir.1(1) Ahmedabad.	Vs.	M/s.Elegance Skyz P.Ltd. 5, Prernadeep Bungalow Opp: Pratishtha Apartment Bodakdev, Ahmedabad. PAN : AACCE 0138 L
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(Applicant)		(Responent)
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Revenue by :	Shri Deelip Kumar, Sr.DR
Assessee by :	Shri G.c. Pipara, AR

सुनवाई की तारीख/Date of Hearing : 22/01/2020

घोषणा की तारीख /Date of Pronouncement: 22/01/2020

आदेश/O R D E R

PER RAJPAL YADAV, JUDICIAL MEMBER:

Present three appeals are filed at the instance of the Revenue against order of Id.CIT(A)-11, Ahmedabad dated 5.9.2016 and 1.2.2018 passed for the Asstt.Years 2013-14 and 2014-15 respectively.

2. Before going to the merit of the cases, the Id.counsel for the assessee at the outset submitted that tax effect on the disputed additions in both the cases is below Rs.50 lakhs. To demonstrate that the Id.counsel has filed a letter dated 20.1.2020 showing calculation of tax effect being below Rs.50 lakhs for each assessment year. In view of this, he submitted that by virtue of recent CBDT Circular No.17 of 2019 dated 8.8.2019, Department has been instructed not to file appeal before the Tribunal where tax effect is below Rs.50 lakhs. This instruction is applicable to the pending cases also. Therefore, the present appeals of

the Revenue are liable to be dismissed at the threshold. Per contra, the Id.DR did not dispute applicability of the recent CBDT circular and also calculation of tax effect being below Rs.50 lakhs in each. He, however, left the issue to the Tribunal to pass appropriate order in the matter.

3. After hearing both the sides and after perusal of the above CBDT Instruction, we are of the view that the present appeal of the Revenue falls within the purview of the CBDT Instruction cited (supra). Tax calculation sheet showing ultimate tax effect placed on record by the Id.counsel, is as under:

<i>A.Y.</i>	<i>Disputed amount of addition</i>	<i>Tax Amount Rs.</i>
2013-14	<i>Addition on account of undisclosed income -</i>	
	<i>Tax @ 30% on Rs. 1,30,00,000/-</i>	<i>39,00,000/-</i>
	<i>Surcharge</i>	<i>1,95,000/-</i>
	<i>Education Cess</i>	<i>84,900/-</i>
	<i>Secondary & Higher Education Cess</i>	<i>40,950/-</i>
	<i>Total Tax</i>	<i>42,17,850/-</i>
2014-15	<i>Addition on account of undisclosed income -</i>	
	<i>Tax @ 30% on Rs. 1,30,00,000/-</i>	<i>39,00,000/-</i>
	<i>Surcharge</i>	<i>1,95,000/-</i>
	<i>Education Cess</i>	<i>84,900/-</i>
	<i>Secondary & Higher Education Cess</i>	<i>40,950/-</i>
	<i>Total Tax</i>	<i>42,17,850/-</i>

It is not disputed by the Revenue that tax effect on the disputed addition is more than Rs.50 lakhs, and therefore, keeping in view the above CBDT circular and provisions of section 268A of the Income Tax Act, we are of the view that the present appeals of the Revenue deserve to be dismissed. Both are dismissed.

However, it is observed that in case on re-verification at the end of the AO it can be demonstrated that the tax effect is more, or Revenue's case falls within the ambit of exceptions provided in the Circular, then the Department will be at liberty to approach the Tribunal for recall of this order. Such application should be filed within the time period prescribed in the Act. In view of the above, the appeals of the Revenue are dismissed due to low tax effect.

4. In the result, appeals of the Revenue is dismissed due to low tax effect.

Order pronounced in the Court on 22nd January, 2020 at Ahmedabad.

**Sd/-
(WASEEM AHMED)
ACCOUNTANT MEMBER**

**Sd/-
(RAJPAL YADAV)
JUDICIAL MEMBER**